

General Information Letter: No subtraction is allowed for expenses disallowed under IRC Section 54G(e)(3).

February 9, 2007

Dear:

This is in response to your letter dated January 9, 2007, which was forwarded to me for consideration. The nature of your request and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be found on the Department's web site at [www. tax.illinois.gov](http://www.tax.illinois.gov).

In your letter you have stated the following:

This is in response to your letter dated December 29, 2006 stating "We have reduced or disallowed the amount you claimed as 'Other Subtractions' because, as they were identified on your return, these items appear to be taxable . . ."

Internal Revenue Code Section 45G provides for a railroad track maintenance credit for Class II and Class III railroads (copy attached). RAILROAD, a Class II railroad, assigned the miles of track to a qualified taxpayer (45G(b)(2)), but agreed to take the basis reduction in the amount of the credit as required by Section 45G(e)(3). This basis reduction is only required when a credit is allowed.

The credit is only allowed for federal income tax. Since Illinois does not have a similar credit, there is no reason for a basis reduction for the Illinois corporation income tax. There is no prohibition in Illinois to make this adjustment. Therefore, we believe the adjustment to eliminate the basis adjustment for federal income tax purposes made to "Other Subtractions" is appropriate and should be allowed.

## **Response**

Under Section 203(b) of the Illinois Income Tax Act (35 ILCS 5/203), the computation of a corporation's "net income" taxed by Illinois begins with the taxpayer's federal taxable income, as properly computed for the taxable year. Various addition and subtraction modifications are then made, and the resulting "base income" is then allocated and apportioned to Illinois. Section 203(h) provides:

Except as expressly provided by this Section there shall be no modifications or limitations on the amounts of income, gain, loss or deduction taken into account in determining gross income, adjusted gross income or taxable income for federal income tax purposes for the taxable year, or in the amount of such items entering into the computation of base income and net income under this Act for such taxable year, whether in respect of property values as of August 1, 1969 or otherwise.

Section 203 contains no provision allowing a subtraction for federal income tax deductions or losses reduced, or gain increased, as a result of the reduction in basis in assets required by Section

45G(e)(3) of the Internal Revenue Code. In contrast, Section 203(b)(2)(I) expressly allows a subtraction for deductions disallowed under Section 280C of the Internal Revenue Code in computing federal taxable income of a corporation that has claimed certain credits other than the credit allowed in Section 45G. Accordingly, the subtraction claimed on the 2005 return cannot be allowed.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b). If you have any further questions, you may contact me at (217) 782-7055.

Sincerely,

Paul S. Caselton  
Deputy General Counsel – Income Tax